

Caltrans Native American Advisory Committee Meeting Minutes

November 9, 2000

Chairman Ben Scerato called the Native American Advisory Committee (NAAC) to order at 9:20 A.M.

The following members were in attendance: Bo Mazzetti, Joseph Myers, Everett Freeman, Lorenda Sanchez, Albert Phoenix, Lata Mathrani for Mary Ann Martin-Andreas, Jack Biondini for Duane Sherman, Renee Wessell for Dore Bietz, Vlayn McCovey, Ted Sanchez for Earl Green, Chip Aguilar for Benjamin Magante, Garth (Randy) Sunberg Jr., and Dave Nenna.

The following members were absent: Harold Dixon, Randolph Feliz, Jack Musick, and Kathy Wallace. Representatives from Caltrans were Brain Smith, Joan Sollenberger, Sharon Scherzinger, Mike Brown, Cynthia Gomez, Jila Priebe, Tina Biorn, Kathleen Sartorius, Gina Moran, and Lorn ElkRobe.

Approval of Agenda

Two items were added to the agenda. Mr. Angel Winn, Vice-Chairman of the Pit River Reservation, requested to be added to the agenda to discuss issues regarding Caltrans' planning process, cultural resources, and policies, as well as becoming a member of the Committee. Mr. Randy Ferguson requested to be added to the agenda to discuss use of the traditional and medicinal plants along state highways. A motion to approve the changes on the agenda was made by Mr. Ben Scerato, and seconded by Mr. Bo Mazzetti. The motion was passed.

Approval of the August 3, 2000 Minutes

A motion was made by Mr. Ben Scerato, to approve minutes for August 3, 2000, and seconded by Mr. Bo Mazzetti. The motion was passed.

Chairperson's Report:

Mr. Ben Scerato brought up the issue of members' absenteeism. He emphasized the importance of roles and responsibilities of the NAAC in dealing with statewide Tribal transportation issues. He also would like the members' participation and their commitment to fulfill these obligations.

Director's Representatives:

Mr. Brian Smith and Joan Sollenberger gave a brief report. Joan and Cynthia gave a presentation on Native American issues at the District Director's monthly meeting on November 16, 2000. Bo Mazzetti and Joan Sollenberger gave a presentation at the last California Transportation Commissioners' (CTC) meeting on December 6, 2000 to follow up on items that had been discussed at the meetings the CTC held with tribes in 1999-2000.

New Business

2001 NAAC Nominations

Cynthia Gomez, briefed the Committee on the status of the 2001 NAAC nominations, she reported that so far we have received seven nominations for seven open spots. We have until November 15, 2000 to receive more nominations. Staff presented the Committee with copies of the letter and nomination forms that were sent out to all the tribes. Cynthia mentioned that after receiving all nominations and recommendations from the Committee, a list of the nominees will be sent to the Director for his review and approval.

The Committee discussed the provision in the NAAC Charter regarding the automatic dismissal of those members that miss two consecutive meetings. Mr. Bo Mazzetti made a motion to dismiss those members according to the NAAC Charter that have missed two consecutive meetings, Ted Sanchez seconded the motion. The motion was approved with a vote of 6 for and 5 against, no abstentions.

Question by Mr. Angel Winn: Does the alternate have to be assigned or designated for the meetings? Answer by Mr. Ben Scerato: Yes. When we started it was recommended that delegates would assign an alternate and let the Committee know. However, the Charter needs to be re-enforced. We need to send a letter to any one who had not assigned an alternate to do so by next meeting.

Mr. Angel Winn, Vice-Chairman of the Pit River Tribe, mentioned that his tribe thinks that it is important to participate in the NAAC process, however, the tribe may need help with traveling expenses. The Committee indicated that the tribes may be eligible for 2% planning monies that are administered by BIA. The issue of funds was directed to Mr. Kanu Patel (BIA) regarding using BIA planning funds for traveling to the NAAC meetings. Ms. Joan Sollenberger, also suggested that if there are any Caltrans' employees that are traveling to participate in these meeting, the tribe may be able to carpool with them to the meeting. She indicated that if the Tribe had any project specific issues they should contact the District office. Staff can provide the tribe with a list of contacts and office locations.

Joan Sollenberger, Program Manager for the Transportation Planning Program announced the dates for the 2001 NAAC meetings, February 1, May 3, and August 2, 2001. The location for these meetings is scheduled at the Caltrans' Maintenance Station in Woodland. The Committee asked Mr. Ted Sanchez to find out if the American Indian State Employees of California (AISEC) is going to sponsor the Annual Transportation

Conference in August, which will coincide with the NAAC meeting on August 2, 2001. Ted will report back at the next meeting.

Environmental Concerns: Mr. Randy Yonemura voiced the following concerns: 1) tribes are not being notified during the initial phases of the planning process, 2) Caltrans is not properly consulting with tribes regarding local projects affecting tribal communities and cultural resources. Tribes usually are not contacted until after the project actually starts. 3) He requested a clarification of the Caltrans Conflict of Interest Policies. He is concerned that Caltrans employees might either be engaged in activities that is a conflict or perceived to be a conflict of interest. He was also concerned that when Caltrans reassigns jobs to avoid conflicts of interest, the reassignments may be compromising the tribes' ability to adequately communicate the tribes' interest and concerns.

Mr. Yonemura also indicated that he had met with Ms. Cynthia Gomez on September 21, 2000, he distributed a written summary and recommendations that resulted from that meeting. Mr. Brain Smith has directed Tina Biorn the Headquarters Environmental Cultural Resources Program to work closely with Districts and Tribes to improve communication, especially regarding cultural environmental resources issues. Mr. Yonemura expressed his reluctance to work with Ms. Biorn.

Native American Plants: Mr. Randy Ferguson, presented a list of plants that are used for medicinal and traditional uses, and asked if Caltrans is or could incorporate these plants in their landscaping projects. The Committee directed the staff to invite a representative from Caltrans' Landscape Department to the next meeting.

Old Business

Negotiated Rule Making Update: Ms. Vlayn McCovey, and Mr. Kanu Patel, members of the Indian Reservation Roads (IRR) Negotiated Rule Making Committee gave an update on the status of the new distribution formulas. Two different formulas are currently being considered for publication in the federal register for public comment. After some discussion, the Committee agreed to encourage other California tribes to support the "New Relative Formula" since it will more beneficial to tribes in California. Ms. Vlayn encouraged the Committee to send a letter of support to the BIA, State Legislators, Senators, California Transportation Commission, and Secretary of Transportation to support the new formula for distribution of funds. Bo Mazzetti made motion to support the "New Relative Formula", seconded by Mr. Chip Aguilar. Motion approved.

Letter to the Caltrans Director: This issue was tabled until the next meeting because it was unclear what action needed to be taken. Mr. Ted Sanchez representative from the American Indian State Employees of California will follow up on this issue with Bob McKay for further review at the next meeting.

Director Morales Meeting: A meeting was scheduled with Director Morales and the NAAC Officers at 4 PM (11/9/00).

Acquisition and Leasing Procedures for Tribal Procurement: Mr. Mike Brown, Director of the Equipment Service Center in the Caltrans Maintenance Program gave a presentation on how State laws affect the sale and leasing of Caltrans' surplus equipment. He mentioned that the State constitution states that California can not make a gift of any kind for equipment that has been purchased by the State. Mr. Brown talked about the State General Services policies regarding surplus equipment. Within that policy he mentioned that Caltrans is allowed to lease or sell surplus equipment at a 'fair market value' to any public entity. Another method is to sell the equipment at a public auction. He mentioned that Caltrans has a list of all Federally Recognized Tribes within California, which will allow us to put the names of the tribes on the Department of General Services' applications for sale or lease of equipment. Mr. Brown mentioned that his program is willing and ready to work closely with tribes that are in need of leasing or purchasing surplus equipment, however it would have to be cleared by the Department of General Services (this process is State law). It is his understanding that at this time DGS is not clear on the tribes' legal eligibility to purchase or lease State surplus equipment. Mr. Brown will send DGS a copy of the Assembly Concurrent Resolution No. 185 that is the State's reaffirmation recognizing the sovereign status of federally recognized Indian tribes as separate and independent political communities. ACR #185 also encourages all state agencies when engaging in activities or developing policies to continue to reevaluate and improve the implementation of laws that affect tribal rights. Mr. Brown hopes this will clear up any questions DGS has on this issue. Mr. Brown will continue to follow-up on this issue.

Reservation Transportation Authority: Bo Mazzetti gave a brief summary of the activities that the RTA has been involved with over the past few months. The Caltrans Senior Transportation Planner, Jo Sanford has been doing a great job working on Tribal Transportation Plans for RTA member tribes. RTA has purchased video equipment, which allows more accurate traffic counts. He encouraged central and northern California tribes to consider forming consortiums to deal with transportation issues.

TERO/Business, Training: Lorn Elkrobe, Civil Rights Native American Desk reported that his job description is in the process of being modified. The Committee asked that a Manager from Civil Rights attend the next meeting to clarify Mr. Elkrobe's role and job duties.

California Indian Policy Statement: Mr. Lorn ElkRobe presented the Committee with the revised California Indian Policy Statement, he explained that the policy was submitted to the Caltrans Legal Department in January 2000. However, after the meeting in Jackson (8/00) the Committee directed him to revise the policy. He was asked to work with Committee member Joe Myers and the Torres Martinez TERO Director.

The Committee has not reviewed the new version. If there are any changes that should be made Mr. ElkRobe requested the Committee send those changes to Ms. Gomez. Mr. ElkRobe explained that Ms. Gomez would send the policy through the formal Caltrans policy review process. The formal process requires staff to explain the background and reason for the proposed policy. The policy will be reviewed by various programs to make

sure that it is not in conflict with current Caltrans policies. And finally the package will be sent to Caltrans Legal Program for final review. This process can take anywhere from three days to few months.

Tribal Handbook Status: Ms. Cynthia Gomez: We are still working on the Handbook, She presented the committee with the final draft and mentioned that the content of the Handbook was not changed from the last Committee's review. In addition we have included the Reference Chapter, California Transportation Agencies, The Tribal Governments, California Metropolitan Planning Organizations (MPO's), the letter form U.S. Transportation Secretary Slater, regarding Signs Order Establishing New Policy For Working with Native Americans, Executive Order W-2692, Caltrans' contacts employees and Liaison, all Regional Transportation Agencies, and their address, BIA office, FHWA Offices and Caltrans' Organizational Chart. Staff presented the Committee with five different samples for the Handbook cover. Staff asked the Committee to chose a pattern that they like the best for the cover of the final document. The committee chose of the Baskets Pattern for the Tribal Handbook.

Caltrans Reports

Cynthia reported on the District Directors meeting. She thanked Ms. Lorenda Sanchez for her help and participation on the interview panel for hiring new staff. She introduced Ms. Jila Priebe as the new Native American Liaison in Headquarters.

She also announced that Caltrans District 8 has hired a full time Senior Transportation Planner to work directly with the Reservation Transportation Authority (RTA). She explained that this is a pilot project. She also mentioned that staff has been involved in assisting Districts and Tribes with Native American transportation issues. Staff tries to direct both parties to the right department or responsible person. Some of the District Chiefs have already made commitments to working closely with tribes.

Ms. Gomez thanked Ms. Kathleen Sartorius (North Region) Native American Liaison on her efforts and work with the Pit River Tribe on their cultural issues. She also mentioned that we are long ways from resolving all issues, however, we are working pro-actively to achieve that goal.

Ms. Tina Biorn, from the Headquarters Environmental Cultural Study Program, mentioned that she works along with Cynthia and Lorn, on Tribal transportation issues. However, her focus is more on Cultural studies' issues. Her office tries to assure the involvement of Tribes on Caltrans' project. She also mentioned that all 12 Caltrans' Districts have a Native American Coordinator. She is currently seeking a better title for these positions. Coordinators should be working with tribes on their cultural issues. She also mentioned that none of the coordinators are Native Americans. She presented the committee with information about "how to get a job with the State" and made an announcement regarding a job opening for an environmental planner and issued the qualification statement for the job. She gave the Committee a list of environmental contacts within each District. She mentioned if the Districts' responsible employees have

not contacted the tribe, in regard to cultural resources issues, to contact her (Tina) directly. She also mentioned that she is working with Caltrans' Maintenance Department in regard to the maintenance of Native Plants and issues with the use of chemical pesticides.

Kathleen Sartorius: Kathleen explained her activities with the various Districts and tribal projects. She explained that some tribes had questions regarding contracting directly with the Tribes on maintenance projects (SHOPP). She explained that the policy is unclear and not uniformly followed in the Districts. Cynthia recommended that this issue be addressed and incorporated in a policy statement.

Announcements/Open Forum

The following announcements were made:

- Building Stronger Tribal Communities Through Planning, November 28-30 Palm Springs.
- 14th National Conference on Rural Public and Intercity Bus Transportation-Transportation Research Board (TRB).
- Torres Martinez TERO awarded the Employer of the Year Award from CIMC.
- CIMC gave an award to Mr. Robert McKay for his vision to resolve transportation issues for Native Americans.

Adjournment

The meeting was adjourned at 4:14 p.m.